

Section 223 – Health Savings Accounts

Part III - Administrative, Procedural, and Miscellaneous

Notice 2005-83

PURPOSE

This notice provides relief for certain health plans with non-calendar year renewal dates that otherwise qualify as high-deductible health plans (HDHPs), except that the plans provide state-mandated benefits without regard to a deductible or with a deductible below the minimum annual deductible specified in § 223(c)(2) of the Internal Revenue Code.

BACKGROUND AND APPLICATION

Some states require that health plans provide certain benefits without regard to a deductible or with a deductible below the minimum annual deductible specified in § 223(c)(2) (e.g., first-dollar coverage or coverage with a low deductible). These health plans are not HDHPs under § 223(c)(2) and individuals covered under these health plans are generally not eligible to contribute to Health Savings Accounts (HSAs). Notice 2004-43, 2004-2 C.B. 10, provides transition relief that treats health plans as meeting the requirement of § 223(c)(2) when the sole reason the plans are not HDHPs is because of certain state-mandated benefits. For months before January 1, 2006, otherwise eligible individuals covered under these health plans will be treated as eligible individuals for purposes of § 223(c)(1) and may contribute to an HSA. The transition period provided in Notice 2004-43 covers months before January 1, 2006, for state-mandated requirements in effect on January 1, 2004.

Generally, a health plan may not reduce existing benefits before the plan's renewal date. Thus, even though a state may amend its laws before January 1, 2006, to authorize HDHPs that comply with § 223(c)(2), non-calendar year plans may still fail to qualify as HDHPs after January 1, 2006 because existing benefits cannot be changed until the next renewal date. For example, a state amends its laws to authorize HDHPs, effective November 1, 2005. A health plan with a renewal date of July 1, 2005 is required to retain the state-mandated low-deductible coverage for the plan year July 1, 2005 through June 30, 2006 because the benefits can only be modified on the renewal date. As a result, although the state has amended its statute, the health plan will fail to be an HDHP for months after January 1, 2006 (*i.e.*, for the months of January through June, 2006).

Therefore, additional transitional relief is appropriate for non-calendar year health plans. Accordingly, the transition relief in Notice 2004-43 is amplified to provide that for any coverage period of twelve months or less beginning before January 1, 2006, a health plan that otherwise qualifies as an HDHP as defined in § 223(c)(2), except that it complied on its most recent renewal date before January 1, 2006 with state-mandated requirements (in effect on January 1, 2004) to provide certain benefits without regard to a deductible or with a deductible below the minimum annual deductible specified in § 223(c)(2), will be treated as an HDHP. In no event will the additional transitional relief provided in this Notice extend beyond the earlier of the health plan's next renewal date or December 31, 2006.

EFFECT ON OTHER DOCUMENTS

Notice 2004-43, 2004-2 C.B. 10, is amplified.

DRAFTING INFORMATION

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